Chicago-Kent Law Review

Volume 78
Issue 1 *Symposium: Private Law, Punishment, and Disgorgement*

Article 1

April 2003

Table of Contents - Issue 1

Chicago-Kent Law Review

CHICAGO-KENT LAW REVIEW

VOLUME 78 2003 NUMBER 1

CONTENTS

SYMPOSIUM: PRIVATE LAW, PUNISHMENT, AND DISGORGEMENT

SYMPOSIUM EDITOR
ANTHONY J. SEBOK

THE LOUIS JACKSON NATIONAL STUDENT WRITING COMPETITION

the standard for a unilateral withdrawal of recognition. In one stroke of the pen, the NLRB overturned *Celanese*. However, arguably the rules had been changed long before, through the NLRB's interpretation of the standard of "good-faith" doubt. Through analysis of the development of the good-faith doubt standard and the Supreme Court's holding in *Allentown Mack*, an attempt is made to determine the future of an employer's unilateral withdrawal of recognition as affected by *Levitz*.

STUDENT NOTES

Civil forfeiture, the process whereby all property "substantially connected" to illegal activity is forfeited to the United States government, plays an integral role in the United States criminal justice system, as it ensures that individuals do not profit from crime, and the proceeds from such actions help to finance the war on drugs and build new prisons. Because civil forfeiture encroaches upon an individual's use and possession of property, Congress has established detailed procedures, including a notice requirement and the right to judicially contest the civil forfeiture action, that must be strictly followed before the Government is entitled to claim the property in question. Against this background, this Comment evaluates the current split amongst the United States Courts of Appeals regarding the issue of how to resolve civil forfeiture actions in which due process has been violated because the defendant did not receive proper notice of an administrative forfeiture proceeding, and the statute of limitations for filing a judicial forfeiture action has expired when the government becomes aware of this fact. Specifically, this Comment criticizes the Sixth Circuit's recent decision, *United States v. Dusenbery*, in which the court concluded that the proper remedy is to restore the claimant's right to judicially contest the forfeiture action and to put the government to its proofs under a probable cause standard, and argues that the Supreme Court of the United States should have granted Dusenbery's petition for writ of certiorari and reversed the Sixth Circuit's decision in *Dusenbery* because the reasons the majority cites to buttress its holding have no foundation in the law.

This Note, as one may surmise from the title, advocates a broader approach to federal funding of human embryo stem cell research. It begins with a look at the science of embryo stem cells and examines the medical promise that stem cell technology holds. It also briefly addresses the controversy that surrounds embryo stem cells. The Note then looks at why federal funding is so important to embryo stem cell research and how federal funding for embryo stem cell research is currently handled. Examination of current federal funding methodology leads to several concerns which are addressed, including property rights, flight of scientists to greener pastures, limited diversity of embryo stem cell lines, and xenotransplantation issues. The Note concludes that while the current approach to federal funding of embryo stem cell research is a step in the right direction, it still needs to be broadened. If American taxpayers are going to fund embryo stem cell research, it should be done it a way that allows those taxpayers to reap the maximum benefit from the research.

Although the Federal Sentencing Guidelines have strived to standardize the sentencing ranges applicable to similarly situated defendants, the Supreme Court has affirmed that the guidelines have not usurped all the sentencing discretion of trial judges. Thus, if a trial judge notices a mitigating or aggravating factor, a judge will examine the factor to determine whether it is an encouraged, discouraged, or forbidden departure ground and then decide whether and how it should affect the defendant's sentence. Many defendants have argued that their cultural beliefs, which may tend to mitigate their mens rea or probability of recidivism, render them distinct from the average offender of the particular crime and therefore should be considered as a mitigating factor when determining their sentence. Many judges have agreed that culture is relevant in sentencing and have departed in cases where defendants pled that their assimilation to American norms and mores warranted consideration. In stark contrast, judges have not allowed similar departures for those that have maintained cultural beliefs distinct from that of the American majority. Although culture is not an explicitly proscribed sentencing factor in the guidelines, courts have resisted using culture in the latter context due to the fear that cultural considerations in those situations was too akin to forbidden sentencing considerations such as race, religion, creed, and national origin. A thorough examination of what culture entails evidences that culture is distinct from those prohibited areas. Thus, courts should recognize and uphold our nation's ideals of cultural pluralism and diversity, and resolve this sentencing disparity in favor of downward departures for cultural difference claims.